

ENTERED

January 06, 2022

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JUSTIN CRAIG FITTS,

Plaintiff,

VS.

GRIMES COUNTY SHERIFF'S OFFICE
and
ROBERT KIMICH
and
MONTGOMERY COUNTY SHERIFF'S
OFFICE, *et al*,

Defendants.

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CIVIL ACTION NO. 4:21-CV-2598

ORDER

Justin Craig Fitts is an inmate in the Grimes County Jail. He filed a civil rights complaint. On December 13, 2021, the defendants filed a motion to dismiss the complaint. On December 20, 2021, Fitts filed a motion to amend the complaint.

Rule 15(a)(1)(B) of the Federal Rules of Civil Procedure allows a plaintiff to amend a complaint once as a matter of course within 21 days after an answer or motion to dismiss is filed. Because Fitts filed his motion to amend less than 21 days after the defendants moved to dismiss, he is entitled to amend his complaint. His motion to amend, (Docket Entry No. 38), is GRANTED.

It is FURTHER ORDERED that:

Therefore, it is **ordered that:**

1. The Clerk will issue summons and the U.S. Marshal will serve a copy of the Complaint, (Docket Entry No. 4), the Amended Complaint, (Docket Entry No. 38), and this Order upon Jailer Magnus, Grimes County Jail, 382 FM 149 West, Anderson, TX 77830.

2. Magnus **forty (40) days** from receipt of this order to answer. The defendant will respond to every factual and legal allegation against them in plaintiff's Complaint and Amended Complaint.

3. Within **thirty (30) days** after an answer is filed, the parties will disclose to each other all information relevant to the claims or defenses of any party. The parties will promptly file a notice of disclosure with the court after such disclosure has taken place. No further discovery will be allowed except on further order of the court. Conferences under Rule 26(f) and 16(b) of the Federal Rules of Civil Procedure are not required except on further order of the court.

4. The defendant will file any dispositive motion, including a motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure, within **ninety (90) days** after the date the defendant's answer is due. The defendant will submit, with a business records affidavit, copies of any documents relevant to plaintiff's claims and the defendant's defenses, including copies of any written policies or written rules relevant to the alleged events forming the basis of this lawsuit. If any of the conditions or events alleged in this lawsuit occurred at a jail or facility other than state prison, the defendant will state whether plaintiff was a pretrial detainee or a convicted felon when the conditions or events alleged in this lawsuit occurred and provide any available information concerning plaintiff's status.

5. The plaintiff will respond to any motion to dismiss or motion for summary judgment within **thirty (30) days** of the date in which the defendant mailed plaintiff his copy, as shown on the defendant's certificate of service. Failure of the plaintiff to respond to the

defendant's motion within the time limit may result in dismissal of this action for want of prosecution under Rule 41(b) of the Federal Rules of Civil Procedure.

7. In addition, each party will serve the other party, or his counsel, with a copy of every pleading, motion, or other paper submitted for consideration by this court. Service will be by mail to the other party. Every pleading, motion, or other document filed with the Clerk of the Court will be signed by at least one attorney of record in his individual name, whose address will be stated, or if the party is proceeding without counsel, by the party, with address likewise stated. In the case of the unrepresented party, only signature by the party will be accepted. If a layman signs a pleading, motion, or other document on behalf of an unrepresented party, such document will not be considered by the court.

8. Every pleading, motion, or other document will include on the original a signed certificate of service stating the date a true and correct copy of the pleading, motion, or document was mailed and to whom mailed. Failure to mail a copy as certified will subject that party to sanction by the court. Sanctions may include, but are not limited to, automatic striking of the pleading, motion, or other document.

9. There will be no direct communications with the United States District Judge or Magistrate Judge assigned to this case. Communications must be submitted to the Clerk with copies to the other party. *See* Rules 5(a) and 11 of the Federal Rules of Civil Procedure.

SIGNED on this 6th day of January, 2022.

A handwritten signature in black ink, appearing to read "Kenneth M. Hoyt", written over a horizontal line.

Kenneth M. Hoyt
United States District Judge